

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIAN FIELMAN, on behalf of himself and all
others similarly situated,

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07 CIV 6815 (CLB)

Plaintiff,

:

NOTICE OF MOTION

v.

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:

ECF FILING

PEPSICO, INC., THE PEPSI BOTTLING GROUP,
INC., and PEPSI BOTTLING VENTURES LLC,

:
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Defendant.

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:

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PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the Declaration of Diane Petroccione, dated September 18, 2007, and the exhibit annexed thereto, Defendants PepsiCo, Inc., The Pepsi Bottling Group, Inc. and Pepsi Bottling Ventures LLC will move this Court before the Honorable Charles L. Brieant at the United States District Court for the Southern District of New York, Courtroom 218, 300 Quarropas Street, White Plains, New York 10601, on November 30, 2007 at 10:00 a.m. or as soon as counsel may be heard, for an Order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing this action for failure to state a claim for which relief can be granted.

PLEASE TAKE FURTHER NOTICE that, pursuant to stipulation entered into by the parties on August 22, 2007, responsive papers, if any, are due on October 22, 2007, and reply papers, if any, are due on November 9, 2007.

Dated: September 19, 2007
New York, New York

By: /s/ Louis M. Solomon
Louis M. Solomon (LS 7906)
Michael S. Lazaroff (ML 0149)
Jennifer L. Jones (JJ 5987)
Patrick J. Dempsey (PD 8372)
PROSKAUER ROSE LLP
1585 Broadway
New York, NY 10036
(212) 969-3000
*Attorneys for Defendants PepsiCo, Inc. and
The Pepsi Bottling Group, Inc.*

/s/ Donald H. Tucker, Jr.
Donald H. Tucker, Jr.*
James M. Parrot (JP 5297)
SMITH, ANDERSON, BLOUNT, DORSETT,
MITCHELL & JERNIGAN, LLP
2500 Wachovia Capitol Center
Raleigh, NC 27602
(919) 821-6681
*Attorneys for Defendants Pepsi Bottling Ventures
LLC*
(*admitted *pro hac vice*)

TO: Jeffrey A. Klafter (JK 0953)
KLAFTER & OLSEN LLP
1311 Marmaroneck Avenue
Suite 220
White Plains, New York 10605
(914) 997-5656

and

Seth R. Lesser (SR 5560)
Andrew P. Bell (AB 1309)
LOCKS LAW FIRM PLLC
110 East 55th Street
New York, New York 10022
(212) 838-3333

Attorneys for Plaintiffs